

News Release



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U. S. Labor Department Sues Plan Officials of Beverage Association Over Mismanagement of Health Plan

NEWARK, N.J.--The U.S. Department of Labor has sued the trustees, plan administrators and other fiduciaries to the New Jersey Licensed Beverage Association health plan in Trenton, N.J. for mismanagement of the plan. The self-insured health plan left participants with more than \$6 million in unpaid health claims.

"Health plans must be properly managed so workers will have access to quality care when they need it," said U.S. Secretary of Labor Elaine L. Chao. "The Labor Department will aggressively enforce the law to recover assets so health benefits promised to workers and their families will be delivered."

The lawsuit alleges that the defendants violated the Employee Retirement Income Security Act (ERISA) by failing to determine and maintain adequate funding levels to pay benefits from 1998 to 2003 and did not have adequate contribution rates to support benefit payments. The suit names as defendants the New Jersey Licensed Beverage Association, Inc.; plan administrator Midlantic Healthcare, Inc. and its vice president Stephan DiTomasso; former plan trustees Melvin Gitler, Robert Scerbo, Phil Citta, William Cleary, Robert Marciani, Joseph Ardire, Richard Bellshot, James Hill, Michael Marsh, Lewis Rothbart, Frank Zanotti, and Ann Smulewicz; and plan fiduciaries Randy Normand and Mary Roenick.

The plan administrator and DiTomasso allegedly did not provide information to the plan trustees and fiduciaries regarding the financial condition of the plan, and did not manage the plan in a financially sound manner. The plan fiduciaries allegedly failed to remove Midlantic and its principal and did not properly monitor the actions of the plan administrator. In August of 2003, the plan had an unpaid claim backlog of \$6,220,323.

The New Jersey Licensed Beverage Association, Inc. sponsored the medical plan for as many as 3,895 employees who worked in bars and restaurants through the State of New Jersey and elsewhere. The plan ceased operating in August 2003.

The suit seeks a court order to require that the defendants restore any losses with interest and to permanently bar them from service to plans governed by ERISA in the future. In addition, the suit asks the court to appoint an independent fiduciary to rehabilitate or liquidate the plan in order to pay participants and creditors.

The suit, filed in the federal district court in Newark, resulted from an investigation conducted by the New York regional office of the Employee Benefits Security Administration (EBSA). Since 1990, the department has conducted more than 700 civil and criminal investigations of health plans affecting 1.9 million participants and their families. These cases involve \$140.5 million in identified violations.

Tips on health benefits for small employers may be found at EBSA's web site under at <http://www.dol.gov/ebsa/newsroom/fshlthinstips.html>. Employers and workers can reach the New York regional office at (212) 607-8600 or EBSA toll-free at 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

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(Chao v. New Jersey Licensed Beverage Association, Inc.)

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